

What's happening to the legacy of an avant-garde legend?

Flaming Intrigue

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The director in 1964
(photo: Fred McDarrah)

On January 30, Surrogate Court Judge Eve Preminger ruled that the archive of Jack Smith belongs, in effect, to the artist's younger sister, a 70-year-old Texas housewife named Mary Sue Slater.

Auteur of the notorious *Flaming Creatures*, performance artist before such a term existed, photographer of unlikely incandescences, "the Alfred Jarry of the East Village," Smith died without a will in 1989.

Known to the cognoscenti but incapable of promoting himself, Smith influenced many who became more famous. He gave Robert Wilson his glacial pacing. He gave Andy Warhol the idea of using non-actors for his films and incorporating mistakes. Smith was the original DIY artist, scavenging on the streets to get material for props, sets, and costumes. A chapter called "The Sheer Beauty of Junk" in Stefan Brecht's *Queer Theatre* sets Smith up as the forefather to Charles Ludlam, John Waters, and others who dared to mix the sublime with the Ridiculous. Richard Foreman called him "the hidden source of practically everything that's of any interest in the so-called experimental American theater today."

Born in 1932, Smith came of age with other cultural rebels, but he wasn't so much unwilling as genuinely unable to conform. What interested him was that state of mind one enters while creating, and that's what he wanted to show on stage or screen. He didn't care about finished products. He made the most important avant-garde film in America, then never completed any of his other films. He was known for actually re-editing during screenings. As for performances, no two were alike. He did not

believe in acting, which was "hoodwinking," or in memorizing lines, which rendered one "a mynah bird."

In his manifesto, "The Perfect Film Appositeness of Maria Montez," Smith explained that the B-movie actress became his muse because she could not act. Instead, she believed—in her own beauty, infusing her dreadful filmography with what Smith saw as "imaginative life and truth." Emulating his idol, Smith made his own persona the center of each performance, and dressed for Montezland, usually a faux desert, as a sheikh or a pharaoh. Smith had a consistent worldview, and his shows, for all their exoticism, came from his daily obsessions. Many dealt, for example, with landlordism, "the central social evil of our time." He did not understand why people had to keep endlessly paying. Thus, his *Hamlet* (never realized, sadly) would have been titled *Hamlet and the 1001 Psychological Jingoleansisms of Prehistoric Landlordism of Rima-Puu*.

Since Smith's death, his film, scripts, costumes, photos, drawings, posters, props, slides, and ephemera have been looked after by performance artist Penny Arcade, a friend of his, and J. Hoberman, *Voice* film critic (author of the Jarry quote above) and long a champion of Smith's work. In 1997, Arcade and Hoberman formed an entity to preserve and promote Smith's art—the Plaster Foundation, named after the Greene Street loft where the artist once lived and staged many a midnight show.

Currently, the parties are trying to reach a settlement, so the story would appear to be cut-and-dried. But no. It's been a strangely Smithian drama of indirection. An old friend of Smith's actually set the sister's lawsuit in motion from behind the scenes. After years of caring for Smith's work, unpaid, Hoberman and Arcade have been rewarded with attacks on their integrity.

Mary Sue Slater last saw her brother in 1956. In the deposition she filed to recover the archive, she testified that her husband "did not approve of Jack's homosexual lifestyle and did not want our sons to be tainted by it"—though Slater now seems troubled by this characterization. One of her sons clarified: "That goes back to the '50s and '60s," adding, "Jack *chose* to alienate

himself." Indeed, Mary Sue Slater does not remember ever getting a letter from her brother.

Their mother passed information to her—though not, for example, about the *Flaming Creatures* scandal that made Smith infamous. (The film was banned as obscene in 1964 and denounced on the Senate floor by Strom Thurmond.) By the time their mother died in 1976, Slater did not even know where her brother lived. She came to New York to look for him, "went around to the addresses I had, and no one had ever heard of him." Smith did not turn up at his mother's funeral, but the lawyer for her estate located him about a year later by running an ad in the *Voice*. Brother and sister had a last talk, on the phone, in 1980.

"He turned against me because I was normal," Slater speculates. "That's the only thing I can think of. Because he hated normal people." Still, she was distraught at her brother's death from AIDS. She hadn't even known he was ill. "I just went into a funk because it brought up all the way our life turned out. It's sad."

Her first visit to Smith's sixth-floor walk-up the day after his memorial must have been bewildering. The artist had been in the process of turning his East Village railroad flat into a set for his never-to-be-filmed *Sinbad in a Rented World*. He'd converted door frames into Moorish arches, camouflaged the bathroom as a Tahitian garden with thousands of plastic vines and plants, and painted a Scheherazade figure with three breasts (and embedded custom-made bra) on his living room wall. Here Mary Sue Slater first encountered Penny Arcade (a/k/a Susana Ventura).

At that point, all Arcade knew about the family was that Smith had not wanted them contacted during his illness. She remembers the sister as keen to get jewelry she could sell at a flea market, when all Smith had was the "junk jewelry" he had altered for use with his costumes. Slater says she sells at antique shows, not flea markets, that Arcade told her she had "a bushel basket of costume jewelry," then didn't produce it, and, worst of all, couldn't find the jewelry Smith had inherited from their mother.

Ultimately, Slater got her brother's end table ("the only thing of beauty that he had") and a small box of jewelry. Arcade also handed over \$50,000 in bearer bonds—Smith had told her where he'd hidden them in the floor—but this does not impress Slater now as proof of Arcade's honesty. "Wouldn't you give up \$50,000," the sister asks, "if you thought you could make millions?"

Millions? We'll get to that.

"The family didn't know Jack's importance in the art world," one of his friends observed. "So it's possible that the stuff would have been destroyed or disappeared somewhere in Texas, while the wimpish friends, including me, did nothing. So the intentions of Penny were good."

Acrimony against Arcade runs high enough among Smith's friends, though, to persuade that one to request anonymity. Not only did Smith have friends from different eras who didn't know each other, but according to a couple of them, he reveled in compartmentalizing people and creating suspicion among them. Some still resent Arcade for getting Smith's keys and taking control. Arcade says Smith gave her permission to use the keys "when he told me where to find the bonds."

Smith's first wish for his work: "Burn everything!" Arcade asked him to consider the future. "The future?" he replied. "It will only get worse!"

If she thought she had to guard the work from Smith's despair and then his family, Arcade intended to guard it just as tightly against one old friend of Smith's in particular, writer Irving Rosenthal. Rosenthal had appeared in *Flaming Creatures* and *No President* and has his own collection of Smithiana in San Francisco. "Jack made me swear," says Arcade, "that if I did not destroy his work, which was his main wish, at least I would not let Irving get it." (Smith had a horror of going into anyone's

collection or "vault.") This eventually prompted Arcade to write a will that Smith never signed, but first she suggested institutions that might take his oeuvre. Smith rejected all of them. Rosenthal says he actually wanted the same institutional protections for Smith's archive. He'd encouraged him early in 1989 to donate his work to a museum where it could be properly cared for.

By the time Rosenthal got to New York, Smith was in a coma, and Arcade was primed for battle. She confronted Rosenthal when he walked into Smith's hospital room, declaring, "Jack told me what an incredible control freak you are" and "his work is not going into your vault." According to Arcade, Rosenthal stormed back out, while she followed him into the hall, screaming, "Talk to Jack! He's not dead yet!" It was the first time Arcade and Rosenthal had ever met.

For his part, Rosenthal says, "It was absolutely clear to me that the worst thing that could happen to the archives would be for them to end up in Penny's ownership." In his own account of Smith's death, he wrote of finding Smith surrounded by unnamed "death managers," who wanted only to call attention to themselves and then acted irresponsibly with Smith's artifacts. For example, Smith's own slides were projected at his memorial, when Rosenthal thought they should have been duped.

Everything Smith owned eventually went to a storage space in Arcade's building, where it remained unpacked until the boxes were moved to P.S.1 for archiving in 1991. Arcade spent a couple of years in court trying to save Smith's apartment so it could be turned into a museum. The day the landlord gutted the place, she was there pulling things out of a dumpster.

Back in San Francisco, Rosenthal wrote a couple of long letters to Mary Sue Slater, whom he'd met at the memorial, urging her: "Get the stuff. Don't leave it in their hands."

My husband was strongly opposed to my taking possession of the artistic materials my brother had created," Mary Sue Slater testified in her deposition, "because my husband objected to their sexual orientation, and I did not want to defy him." Her son, Jack's nephew, was to administer the estate. The Nephew requested anonymity here, claiming that for a couple of years after Smith's death, he was called "almost nightly" by Smith's friends.

Hoberman was not part of Smith's circle. Arcade called him in to add legitimacy to an artist still considered "underground." Hoberman says he was "wary" of Arcade at first, but came to trust and respect her.

In January 1990, the Nephew authorized Hoberman "to act as my representative in matters of artistic development concerning the cataloging, transporting, and storing" of Smith's materials. This was the last time anyone associated with the Plaster Foundation heard from the Nephew. He moved without leaving a forwarding address, then ended his involvement with the estate late in 1991, though neither Hoberman nor Arcade ever knew this.

For a couple of years, Hoberman continued writing to the Nephew, in care of Mary Sue Slater, mostly about the fundraising he had organized to restore, first *Flaming Creatures*, and then the contents of 47 film cans found in Smith's closet.

In 1990, Arcade called the Slaters, reached the husband, and was told never to call again.

In November 1992, Hoberman wrote Slater: "For nearly three years, I have been trying to place Jack's artistic effects with various not-for-profit institutions—a matter which has consumed considerable time and no small expense. . . . In each case, however, the institution would need to own this material outright. Would you be willing to relinquish your claim to these effects?" No one from the family ever replied to any of Hoberman's letters, sent by registered mail.

Hoberman had told the family in 1989 that Smith's work was both "priceless and worthless," a statement Mary Sue Slater and her son now cite in their depositions as if it had been said to mislead them. But the fact is that when Arcade and Hoberman began working with Smith's oeuvre, they found little art-world interest. Among the nonprofits Hoberman was referring to in his 1992 letter, only Anthology Film Archives was willing to take everything, and that wasn't exactly the optimal place. Aside from Smith's legendary animosity toward Anthology director Jonas Mekas, says Hoberman, "I didn't think they had the resources to conserve non-film material." New York University had expressed interest in the papers, and the Museum of Modern Art in the films. But even if Arcade and Hoberman had been willing to split up the work, they needed the Slaters to sign off on the agreement.

Over the years, my work has brought me into contact with all three members of the Plaster Foundation. I am no longer employed by *The Village Voice*, but Hoberman was once a colleague, and Arcade is part of the downtown performance scene I covered. Attorney Mary Dorman, who joined the foundation board in 1997, is the lawyer who represented Karen Finley in the artist's lawsuit against the National Endowment for the Arts—an issue I wrote extensively about for the *Voice*. So I was surprised and disturbed to learn that rumors were circulating through the art world about the Plaster Foundation selling Smith's work. I should also disclose that I first heard these rumors from Hoberman and Arcade themselves, who wanted to know where they came from. They say that they have sold, for example, prints of *Flaming Creatures*, but vehemently deny selling any original work. Since my own credibility is at stake here, I set out to track every rumor and print the facts, no matter how it made them look.

Hoberman and Arcade incorporated as the Plaster Foundation in 1997, needing a legal entity that could loan Smith's work to P.S.1 for the artist's first retrospective. According to Hoberman,

who keeps the books, the foundation took in as much as \$12,000 in the years when prints of Smith's films were first made available. (They had not been in circulation before.) And restoring the films was the first major expense. When Smith re-edited during screenings, he'd remove the take-up reel and re-splice footage on the spot, sometimes with masking tape or even duct tape. This had taken its toll on the celluloid. Restoration could not be done by volunteers.

Currently, Plaster Foundation expenses run about \$8,000 to \$9,000 a year (mostly to rent storage space), and film rentals have stabilized at \$3,000 to \$4,000, so they are operating in the red. Copyrights on four completed books (the P.S.1 catalog, for example) also belong to the Plaster Foundation, which will earn any royalties.

Rumors about the Plaster Foundation selling work proved hard to track, however, because most amounted to "they're selling work," with no specifics provided. Specifics that *were* provided did not check out. The Smith photo sold at auction at Swann Galleries (for \$3,680) on February 17 came from a European collector. Shows at Mitchell Alpus and Marianne Boesky featured Smith artwork owned by his friends. (Only the Alpus work was for sale.) The Smith pieces exhibited at Matthew Marks last summer were on loan from the Plaster Foundation and not for sale. No one I spoke to knew of any original work sold by the Plaster Foundation.

A couple of years ago, Hoberman and Arcade were approached by a collector who has a relationship with two prominent museums. Because the foundation was broke, they actually considered selling a couple of pieces—on condition that the collector place the work in one of the museums. They didn't know what price to ask, so they consulted Jeffrey Peabody at Matthew Marks. "My answer was, there's nothing to go on," said Peabody. "There's no sales history. Nothing's ever been sold." In the end, they didn't sell anything.

If the Plaster Foundation made any mistake, it was in not keeping the Slater family connected. The P.S.1 show, for example, changed Smith's image from cult figure to visionary, and no doubt enhanced the value of his work. But the Slaters never even knew about it.

After nearly four years of no response from the family, Arcade and Hoberman turned to Dorman, and she focused her attention on the public administrator, an official who represents those dying intestate. (No response there either.) Hoberman and Arcade then filed notices of claim against the estate totaling \$250,000—now used by the sister's supporters as evidence of their greed. But there was no money to be gotten. The claim was Dorman's idea, a way to get the P.A. to respond. But the P.A. never responded.

The family came back into the picture indirectly through Mary Jordan, director of a documentary in progress about Smith called *You Don't Know Jack*. Jordan had once lived in Irving Rosenthal's San Francisco commune. She learned about Smith when Rosenthal showed her the photos in his "vault," and, says Jordan, "They burned a hole in my heart." Her relationship with the Plaster Foundation has been "strained" (Hoberman's word) from the start, though he and Arcade had no idea she was close to Rosenthal.

In the autumn of 2002, Rosenthal called Mary Sue Slater after learning that the Plaster Foundation intended to charge Jordan \$10,000 to \$13,000 for up to 40 minutes of Smith's footage. (In contrast, Warhol's footage costs about \$6,000 a minute.)

"I was so outraged by that contract that I called Mary Sue Slater at home," says Rosenthal. "I said, 'Look, Jack's stuff is really worth an enormous amount of money, and it's in the hands of these crooks.' " Rosenthal is the one who thinks the archive is worth millions, and maybe it is, but the Plaster Foundation has never been able to afford an appraiser.

In November 2002, Slater wrote her first letter to the Plaster Foundation, asking for an accounting and requesting that it "please send us our share." Hoberman sent an exasperated reply, asking why the Nephew had never been in touch, detailing all the work done, and explaining that the foundation operated at a loss.

Rosenthal then decided that the sister needed a New York attorney and called an old friend, Al Podell. Last spring the Plaster Foundation was ordered to turn over all of Smith's work. Convinced that the Slaters would sell it to private collectors, the foundation refused. That's the Cliffs Notes version of how this ended up in court.

Before one court appearance, flyers were sent from Jordan's production office urging "community support" for Smith and his sister against the "vampires." Jordan says that to her, "vampire" means "the system," even if the people in her office meant Arcade and Hoberman. She also rallied Smith's friends to come to court, where the Plaster Foundation argued that the Slaters abandoned the work. But the judge didn't buy it.

Hoberman learned from this reporter that part of the sister's agreement with Podell was that the work be sold intact to a museum or cultural institution. (This was Rosenthal's suggestion.) Surprised, Hoberman said that if a museum took it, he'd jump for joy. Arcade seemed skeptical that this could really be true. But it's the final irony. After all the rancor, both sides apparently want the same thing.

And what did Smith want? Ivan Galietti, a friend, imitated Smith's high nasal drawl to deliver the last wish and testament he heard the artist make: "Let them fight over it."